THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.15182 OF 1996

Dated:19-12-2006

Between:
Vennamareddi Mahankali Rao and another Petitioners

And

The District Collector, Krishna District, Machilipatnam and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.15182 OF 1996

ORDER:

1. This writ petition has been instituted by the petitioners questioning the validity of notification issued under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter be referred to as 'the Act') on 17th May,1995 as well as the declaration published under Section 6 of the Act on 17th June,1996 proposing to acquire the land of an extent of Ac.2.08 cents for the purpose of providing house sites to weaker sections.

2. The writ petitioners have asserted that the notification under Section 4 (1) of the Act has been published in the Krishna District Gazette on 17-05-1995 but however declaration under Section 6 of the Act has been published on 17-6-1996 and therefore, clause (ii) of sub section 1 of Section 6 of the Act has been violated and hence the same is liable to be set-aside. The writ petitioners have asserted that though they have purchased the land through a registered sale deed much prior to the date of publication of notification under Section 4 (1) of the Act but nonetheless their names have not been included in the said notification published on 17-05-1995 and thus they were deprived of an opportunity to raise the objections under Section 5-A of the Act for the proposed acquisition.

3. A detailed counter affidavit has been filed. It has been asserted that a large extent of land of Ac.18-08 cents is sought to be acquired for the purpose of providing house sites to the weaker sections and therefore, the compulsory acquisition of land is essentially intended for the said purpose. To neutralize

the contention canvassed by the writ petitioners that the period of one year time has lapsed from the date the notification under Section 4 (1) of the Act has been published for making a declaration under Section 6 of the Act, it is averred in the counter affidavit that after notification under Section 4 (1) was got gazetted on 24-05-1995, the same was also got printed in the local newspapers on 29th May,1995 and 30th May,1995, but however, it has been got published in the locality by beating of drums on 30th June,1995. Therefore, the last of these series of dates namely 30-06-1995 alone has got to be taken as the date of publication for the purpose of computing one year time limit prescribed under clause (ii) of sub section 1 of Section 6 of the Act.

4. The learned Government Pleader submits that one year period shall not be mechanically reckoned from the date of publication of 4(1) notification in the gazette namely on 17th May,1995. While Section 4 (1) of the Act mandates the notification to be got published not only in the gazette but also at least in two newspapers of which one should be in a regional language. It also mandates publication of the substance of the 4(1) notification in the locality. But however, it is inexplicable as to why the notification under Section 4 (1) of the Act has not been got published in the locality up to 30-06-1995, which is more than a month away from the date of publication of the notification in the district gazette on 24.05.1995. Similarly, except saying that the writ petitioners have not got their names mutated in the revenue record, no further explanation has been forthcoming as to why the names of the writ petitioners have not been incorporated in the notification issued under Section 4 (1) of the Act. In view of the interim orders passed by this court, the lands in question have not been taken possession of and no award also has been passed by the Collector. Since the writ petitioners have not had any opportunity of raising objections against the proposed acquisition of their lands, it is only appropriate that they must be provided at least such an opportunity to satisfy the Collector that their lands are not required for

compulsory acquisition for the public purpose and to demonstrate to the satisfaction of the Collector that there are better suitable lands available in the village for achieving the purpose concerned. When once the notification under Section 4 (1) has been got gazatted on 24th May,1995 and the same was also published in the local newspapers circulated in the locality on 29-05-1995 and 30-05-1995, it is totally inexplicable why it took more than 30 days for the gist of the notification to be published in the locality and that too by beating of tom tom. Therefore, there will not be any independent material to vouch the factum of publication of the gist of the notification in locality by beating of tom tom except an entry to that effect made in the records maintained by the respondents in their office. Since the declaration under Section 6 of the Act was published in the gazette on 17-06-1996, which is beyond one year period, if such period is so reckoned from the date of publication of the notification in the Gazette on 24.05.1995, I am inclined to accept that the date 30-06-1996 might have been artificially brought about so as to ensure that the declaration under Section 6 of the Act does not fall within the mischief of clause (ii) of sub section 1 of Section 6 of the Act. Since the writ petitioners are deprived of an opportunity to participate in the enquiry and the purpose for which the lands are sought to be acquired being one to provide house sites to the weaker sections, I consider it appropriate to afford an opportunity for the writ petitioners to raise their objections against the proposed acquisition of their lands. I therefore set-aside the declaration made under Section 6 of the Act, which was got published in the Krishna District Gazette on 17-06-1996, by directing the respondent-Collector to conduct an enquiry under Section 5-A of the Act by putting the writ petitioners on notice. It is needless to observe that objections raised, if any by the writ petitioners, will receive their objective consideration at the hands of the Collector before the issue is concluded appropriately.

5. For the reasons set out supra, the declaration made under Section 6 of

the Act published in the Krishna District Gazettes on 17-06-1996, in which the lands belonging to the writ petitioners are acquired, is quashed and the Collector is directed to conduct an enquiry under Section 5- A of the Act within a period of three months from today and after considering the objections, if any raised by the writ petitioners, would finalize the entire issue thereof. With this, the writ petition stands allowed in part but however without costs.

_____

NOOTY RAMAMOHANA RAO,J

Stp
19-12-2006